UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND
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In re: :

ARCTIC AIR, INC.   :   BK No. 95-12405
                    Debtor   Chapter 7
- - - - - - - - - - - - - - - - - - - x

TITLE: *In re Arctic Air, Inc.*

CITATION: 202 B.R. 533 (Bankr. D.R.I. 1996)

ORDER SUSTAINING TRUSTEE'S OBJECTION TO SECURED CLAIM

Heard on August 28, 1996, on the Chapter 7 Trustee's
Objection to the secured claim of Energy Control Systems, Inc.
The Trustee's objection to Energy Control's status as a
secured creditor is based on the fact that the parties never
signed a security agreement. The only writings between the
Debtor and Energy Control Systems are: (1) a UCC-1 Financing
Statement, with a list of collateral attached; and (2) invoices
from Energy Control Systems to the Debtor for goods sold and
delivered. At the conclusion of the hearing, the Court
indicated its inclination to rule in favor of the Trustee, but
the Creditor requested, and was granted leave to file an
additional memorandum in support of its alleged secured status.
Upon consideration of Energy Control's supplemental filings,
we are still unable to agree with its position.

Instead, we adopt and incorporate herein by reference the arguments of the Trustee. (*See* Exhibit A, Trustee's Memorandum, Docket #55). Based upon the record and the documents provided, there is no competent evidence of the Debtor's intent to grant a security interest to Energy Control Systems under either R.I. Gen. Laws § 6A-9-203(1)(a), or *American Card Co., Inc. v. H.M.H. Co.*, 196 A.2d 150, 151-52 (R.I. 1963). To put it in terms fact specific to this case, a UCC-1 financing statement with a description of the property, together with invoices from the creditor to the Debtor, do not create a valid security interest in the goods. Accordingly, the Trustee's Objection is SUSTAINED, and Energy Control System's claim is allowed as an unsecured claim.

Enter Judgment consistent with this order.

Dated at Providence, Rhode Island, this 16th day of October, 1996.

/s/ Arthur N. Votolato

Arthur N. Votolato
U.S. Bankruptcy Judge

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